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EXAMINER

PARRY, CHRISTOPHER L

ART UNIT

PAPER NUMBER

2623

DATE MAILED: 05/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/955,180

Applicant(s)

MIYAJIMA ET AL.

Examiner

Chris Parry

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 March 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments with respect to claims 1-13 have been considered but are moot in view of the new ground(s) of rejection.

### *Claim Rejections - 35 USC § 101*

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 11-13 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim 11 recites the limitation "**A computer readable program for a video distribution system which distributes video data to a user terminal which can be connected to a network, comprising the steps of**" that is functional descriptive material (i.e. computer programs). A computer program not claimed as embodied in a computer-readable medium are descriptive material per se are not statutory because they are not capable of causing functional change in the computer. The computer program does not define any structural and functional interrelationships between the data and other claimed aspects of the invention, which permit the computer program's functionality to be realized. In contrast, a claimed **computer-readable medium encoded with a computer program** is a computer element, which defines structural

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and functional interrelationships between the computer program and the rest of the computer, which permit the computer programs functionality to be realized.

Claim 13 recites the limitation "**A computer readable program for a video distribution system which distributes video data to a user terminal which can be connected to a network, comprising the steps of**" that is functional descriptive material (i.e. computer programs). A computer program not claimed as embodied in a computer-readable medium are descriptive material per se are not statutory because they are not capable of causing functional change in the computer. The computer program does not define any structural and functional interrelationships between the data and other claimed aspects of the invention, which permit the computer program's functionality to be realized. In contrast, a claimed **computer-readable medium encoded with a computer program** is a computer element, which defines structural and functional interrelationships between the computer program and the rest of the computer, which permit the computer programs functionality to be realized.

Claims 11 and 13 appear to be claiming a computer program per se. Since the computer program is not embodied on the computer readable medium, there is no interrelationship between the program and the computer. Therefore, the functionality of the program will not be realized. Further, claims 11 and 13 seek the patent protection for a computer readable program in the abstract.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Khoo et al. "Khoo" (U.S. 6,434,747).

Regarding Claim 1, Khoo discloses, a video distribution system (200 – figure 2) that distributes video data to a user terminal (235 – figure 3) which can connect to a network (230 – figure 3) comprising: a distribution list generating device that generates a distribution list that defines a distribution order of said video data to said user terminal and includes a link name that links to video data as a distribution request destination, by disclosing server 225 comprises a server processor or "distribution list generating device" which generates a customized media list 226 from personalized data (Col. 4, lines 59-65). Khoo discloses the customized media list includes a list of television shows and a list of advertising commercials that are arranged in a predetermined order (Col. 2, lines 20-27 and Col. 7, lines 32-36). Further, the customized media list 226 is sent to client 235 over network 230 where the client processor may retrieve the customized media, from other locations, based on the customized media list (Col. 5, lines 29-39). Each customized media list 226 or "distribution list" must include a link name with video

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data since Khoo discloses the databases which store the video files may be remotely located from server 225 and therefore an address/location name or "link name" would be needed video data in order to facilitate server 225 locating the requested video file (Col. 6, lines 58-64).

Khoo teaches, a link list generating device (305 – figure 3) that generates a link list that is a correspondence list between said link name and a video data file name corresponding to said link name (Col. 5, lines 5-7 and Col. 6, lines 16-21).

Advertisement service module 305 is used to create a list or "link list" of personalized advertisements based off of the users profile data or "condition data" that is stored in personalized data database 220. The list is created in order to facilitate the client device to retrieve the personalized advertisements from other locations based on the created list or "link list" (Col. 6, lines 43-52).

Khoo teaches, a link list updating device (320 – figure 3) that updates the video data file name corresponding to the link name in said link list to another video data file name depending on distribution conditions (Col. 10, lines 28-40). The user management module 320 or "link list updating device" receives personalized data from user 240 and communicates with the personalized advertisement service module 305 or "link list device" in order to update the current link list by updating the video data file name that corresponds to the link name of the advertisement that doesn't match as well with the user as the another advertisement video file that matches better based off of the received user personalized data.

Khoo teaches, wherein said video data is distributed based on said link list (Col. 7, lines 18-26).

As for Claim 2, Khoo teaches, wherein, in the case in which said video data is associated with distribution condition information that includes as said distribution conditions at least one of the...attribute information about the user (Col. 10, lines 17-40). Khoo discloses generating the customized media list by matching the properties of the content and advertisements, with the personalized data of the user or "condition data being attribute information about the user".

Khoo teaches, said link list updating device (320 – figure 3) updates the video data file name corresponding to said link name to a video data file name of a video data satisfying the distribution conditions included in said distribution condition information (Col. 10, lines 5-40). Khoo discloses the user is given an option to modify the personalized data if personalized data is not currently present. If the user chooses to update the personalized data, user management module 320 would sort the personalized data in the personalized database 220 and further communicate with modules 305 and 310 in order to generate a customized media list. Khoo discloses the user has the option not to enter data, so a default media list must be created and sent to client 235. So, since there must be a default media list, if the user does in fact choose to create personalized data, the video data file names would be updated with video data files that match with the user's personalized data. Therefore, the user management

module 320 or "link list updating device" would update the video data file names on the media lists that correspond to the link names with video data file names that satisfy the users attributes.

As for Claim 3, Khoo teaches wherein, in the case in which predetermined request information is received from said user terminal (235 – figure 3), said link list updating device (320 – figure 3) updates the video data file name corresponding to the link name to said video data file name corresponding to said request information (Col. 10, lines 17-40 and Col. 11, lines 6-10). Khoo discloses the user is given an option to modify the customized media list by adding, removing, or otherwise rearranging the customized content on the customized media list. The user management module 320 would receive this data from the user and communicate this new data to modules 305 and 310 in order to create a new customized media list that would be transmitted to the user. Therefore, the user management module 320 or "link list updating device" would update the video data file names on the media lists that correspond to the link names with video data file names that satisfy the users requested changes.

As for Claim 4, Khoo teaches, wherein a video data selecting device (325 – figure 3) that selects video data to be subsequently distributed based on the information about the video data that is being distributed is further provided (Col. 6, lines 52-64).



Khoo teaches, said link list updating device (320 – figure 3) updates the video data file name corresponding to said link name to a video data file name of the video data selected by said video data selecting device (Col. 10, lines 28-67).

As for Claim 5, Khoo teaches wherein, in the case in which said video data is further associated with the information about said video data, further comprising: a video data selecting device (325 – figure 3) that refers to said information about the video data that is scheduled for distribution and selects video data to be distributed thereafter (Col. 6, lines 52-64).

Khoo teaches, said link list updating device (320 – figure 3) updates the video data file name corresponding to the link name to said video data file name of the video data that has been selected by said video data selecting device (Col. 10, lines 28-67).

As for Claim 6, Khoo teaches, wherein said link list updating device (320 – figure 3) updates the video data file name by referring to the priority order list that determines the priority order in the distribution of the video data (Col. 7, lines 18-36).

Regarding Claim 7, Khoo discloses, a video distribution system (200 – figure 2) that distributes video data to a user terminal (235 – figure 3) that can connect to a network (230 – figure 3) comprising: a distribution list generating device for generating a

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distribution list defining a distribution order of said video data to said user terminal and including a link name which links to video data...as distribution request destinations, by disclosing server 225 comprises a server processor or "distribution list generating device" which generates a customized media list 226 from personalized data (Col. 4, lines 59-65). Khoo discloses the customized media list includes a list of television shows and a list of advertising commercials that are arranged in a predetermined order (Col. 2, lines 20-27 and Col. 7, lines 32-36). Further, the customized media list 226 is sent to client 235 over network 230 where the client processor may retrieve the customized media, from other locations, based on the customized media list (Col. 5, lines 29-39). Each customized media list 226 or "distribution list" must include a link name with video data since Khoo discloses the databases which store the video files may be remotely located from server 225 and therefore an address/location name or "link name" would be needed video data in order to facilitate server 225 locating the requested video file (Col. 6, lines 58-64).

Khoo teaches, a link list generating device (305 – figure 3) for generating a link list which is a correspondence list between said link name and a video data file name...corresponding to said link name (Col. 5, lines 5-7 and Col. 6, lines 16-21). Advertisement service module 305 is used to create a list or "link list" of personalized advertisements based off of the users profile data or "condition data" that is stored in personalized data database 220. The list is created in order to facilitate the client device to retrieve the personalized advertisements from other locations based on the created list or "link list" (Col. 6, lines 43-52).

Khoo teaches, a link list updating device (320 – figure 3) for updating the video data file name...corresponding to the link name in said link list to another video data file name...depending on distribution conditions (Col. 10, lines 28-40). The user management module 320 or “link list updating device” receives personalized data from user 240 and communicates with the personalized advertisement service module 305 or “link list device” in order to update the current link list by updating the video data file name that corresponds to the link name of the advertisement that doesn’t match as well with the user as the another advertisement video file that matches better based off of the received user personalized data.

Khoo teaches, wherein said video data is distributed based on said link list (Col. 7, lines 18-26).

Regarding Claim 8, Khoo discloses, a video distribution method (figure 6) for distributing video data to a user terminal (235 – figure 3) that can be connected to a network (230 – figure 3) comprising the steps of: generating a distribution list that defines a distribution order of said video data to said user terminal and includes a link name linked to video data as a distribution request destination (620 – figure 6; Col. 10, lines 31-46). Khoo disclose server 225 generates a customized media list 226 from personalized data (Col. 4, lines 59-65). Khoo discloses the customized media list includes a list of television shows and a list of advertising commercials that are arranged in a predetermined order (Col. 2, lines 20-27 and Col. 7, lines 32-36). Further,

the customized media list 226 is sent to client 235 over network 230 where the client processor may retrieve the customized media, from other locations, based on the customized media list (Col. 5, lines 29-39). Each customized media list 226 or "distribution list" must include a link name with video data since Khoo discloses the databases which store the video files may be remotely located from server 225 and therefore an address/location name or "link name" would be needed video data in order to facilitate server 225 locating the requested video file (Col. 6, lines 58-64).

Khoo teaches, generating a link list that is a correspondence list between said link name and a video data file name corresponding to the link name (Col. 5, lines 5-7 and Col. 6, lines 16-21). Advertisement service module 305 is used to create a list or "link list" of personalized advertisements based off of the users profile data or "condition data" that is stored in personalized data database 220. The list is created in order to facilitate the client device to retrieve the personalized advertisements from other locations based on the created list or "link list" (Col. 6, lines 43-52).

Khoo teaches, updating the video data file name corresponding to the link name in said link list to another video data file name depending on distribution conditions (Col. 10, lines 28-40). The user management module 320 or "link list updating device" receives personalized data from user 240 and communicates with the personalized advertisement service module 305 or "link list device" in order to update the current link list by updating the video data file name that corresponds to the link name of the advertisement that doesn't match as well with the user as the another advertisement video file that matches better based off of the received user personalized data.

Khoo teaches, wherein said video data is distributed based on said link list (Col. 7, lines 18-26).

Considering Claim 9, the claimed elements of wherein, when said video data is associated with distribution time information for specifying...distribution condition information including more than one of user's attribution information, said updating step for updating said link list updates a video data file name corresponding to said link list name to a video data file name of a video data which satisfy the distribution condition contained in said distribution condition information, corresponds with subject matter mentioned above in the rejection of claim 2, and is likewise treated.

Regarding Claim 10, Khoo discloses, a video distribution method (figure 6) for distributing a video data to a user terminal (235 – figure 3) that can be connected to a network (230 – figure 3), the video distribution method comprising the steps of: generating a distribution list that defines a distribution order of said video data to said user terminal (235 – figure 3) and includes a link name which is linked to video data...as a distribution request destination (620 – figure 6; Col. 10, lines 31-46). Khoo disclose server 225 generates a customized media list 226 from personalized data (Col. 4, lines 59-65). Khoo discloses the customized media list includes a list of television shows and a list of advertising commercials that are arranged in a predetermined order (Col. 2, lines 20-27 and Col. 7, lines 32-36). Further, the customized media list 226 is sent to

client 235 over network 230 where the client processor may retrieve the customized media, from other locations, based on the customized media list (Col. 5, lines 29-39). Each customized media list 226 or "distribution list" must include a link name with video data since Khoo discloses the databases which store the video files may be remotely located from server 225 and therefore an address/location name or "link name" would be needed video data in order to facilitate server 225 locating the requested video file (Col. 6, lines 58-64).

Khoo teaches, generating a link list that is a correspondence list between said link name and a video data file name...corresponding to said link name (Col. 5, lines 5-7 and Col. 6, lines 16-21). Advertisement service module 305 is used to create a list or "link list" of personalized advertisements based off of the users profile data or "condition data" that is stored in personalized data database 220. The list is created in order to facilitate the client device to retrieve the personalized advertisements from other locations based on the created list or "link list" (Col. 6, lines 43-52).

Khoo teaches, updating the video data file name...corresponding to the link name in said link list to another video data file name...depending on the distribution conditions (Col. 10, lines 28-40). The user management module 320 or "link list updating device" receives personalized data from user 240 and communicates with the personalized advertisement service module 305 or "link list device" in order to update the current link list by updating the video data file name that corresponds to the link name of the advertisement that doesn't match as well with the user as the another

advertisement video file that matches better based off of the received user personalized data.

Khoo teaches, wherein said video data is distributed based on said link list (Col. 7, lines 18-26).

Regarding Claim 11, Khoo discloses, a computer readable program for a video distribution system which distributes video data to a user terminal (235 – figure 3) which can be connected to a network (230 – figure 3), comprising the steps of: generating a distribution list defining a distribution order of said video data to said user terminal (235 – figure 3) including a link name which is linked with the video data as a distribution request destination (Col. 10, lines 31-46). Khoo disclose server 225 generates a customized media list 226 from personalized data (Col. 4, lines 59-65). Khoo discloses the customized media list includes a list of television shows and a list of advertising commercials that are arranged in a predetermined order (Col. 2, lines 20-27 and Col. 7, lines 32-36). Further, the customized media list 226 is sent to client 235 over network 230 where the client processor may retrieve the customized media, from other locations, based on the customized media list (Col. 5, lines 29-39). Each customized media list 226 or “distribution list” must include a link name with video data since Khoo discloses the databases which store the video files may be remotely located from server 225 and therefore an address/location name or “link name” would be needed video data in order to facilitate server 225 locating the requested video file (Col. 6, lines 58-64).

Khoo teaches, generating a link list which is a correspondence list between said link name and a video data file name corresponding to said link name (Col. 5, lines 5-7 and Col. 6, lines 16-21). Advertisement service module 305 is used to create a list or "link list" of personalized advertisements based off of the users profile data or "condition data" that is stored in personalized data database 220. The list is created in order to facilitate the client device to retrieve the personalized advertisements from other locations based on the created list or "link list" (Col. 6, lines 43-52).

Khoo teaches, updating the video data file name corresponding to the link name in said link list to another video data file name depending on distribution conditions (Col. 10, lines 28-40). The user management module 320 or "link list updating device" receives personalized data from user 240 and communicates with the personalized advertisement service module 305 or "link list device" in order to update the current link list by updating the video data file name that corresponds to the link name of the advertisement that doesn't match as well with the user as the another advertisement video file that matches better based off of the received user personalized data.

Khoo teaches, wherein said video data is distributed based on said link list (Col. 7, lines 18-26).

Considering Claim 12, the claimed elements of wherein, when said video data is associated with distribution time information for specifying...distribution condition information including more than one of users attribution information, said step of



updating said link list updates the video data file name corresponding to said link name to the video data file name of a video data which satisfies the distribution conditions contained in said distribution condition information, corresponds with subject matter mentioned above in the rejection of claim 2, and is likewise treated.

Regarding Claim 13, Khoo discloses, a computer readable program for a video distribution system which distributes video data to a user terminal (235 – figure 3) which can be connected to a network (230 – figure 3), comprising the steps of: generating a distribution list which defines a distribution order of said video data to said user terminal (235 – figure 3) and contains a link name which is linked to video data...as a distribution request destination (Col. 10, lines 31-46). Khoo disclose server 225 generates a customized media list 226 from personalized data (Col. 4, lines 59-65). Khoo discloses the customized media list includes a list of television shows and a list of advertising commercials that are arranged in a predetermined order (Col. 2, lines 20-27 and Col. 7, lines 32-36). Further, the customized media list 226 is sent to client 235 over network 230 where the client processor may retrieve the customized media, from other locations, based on the customized media list (Col. 5, lines 29-39). Each customized media list 226 or “distribution list” must include a link name with video data since Khoo discloses the databases which store the video files may be remotely located from server 225 and therefore an address/location name or “link name” would be needed video data in order to facilitate server 225 locating the requested video file (Col. 6, lines 58-64).

Khoo teaches, generating a link list which is a correspondence list between said link name and a video data file name...corresponding to said link name (Col. 5, lines 5-7 and Col. 6, lines 16-21). Advertisement service module 305 is used to create a list or "link list" of personalized advertisements based off of the users profile data or "condition data" that is stored in personalized data database 220. The list is created in order to facilitate the client device to retrieve the personalized advertisements from other locations based on the created list or "link list" (Col. 6, lines 43-52).

Khoo teaches, updating the video data file name...corresponding to said link name in said link list to another video data file name...depending on distribution conditions (Col. 10, lines 28-40). The user management module 320 or "link list updating device" receives personalized data from user 240 and communicates with the personalized advertisement service module 305 or "link list device" in order to update the current link list by updating the video data file name that corresponds to the link name of the advertisement that doesn't match as well with the user as the another advertisement video file that matches better based off of the received user personalized data.

Khoo teaches, wherein said video data is distributed based on said link list (Col. 7, lines 18-26).

***Note to Applicant***

5. Art Units 2611, 2614 and 2617 have changed to 2623. Please make sure all future correspondence indicate the new designation 2623.

***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chris Parry whose telephone number is (571) 272-8328. The examiner can normally be reached on Monday through Friday, 8:30 AM EST to 4:30 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Grant can be reached on (571) 272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Examiners Initials: CLP  
May 18, 2006

  
**CHRISTOPHER GRANT  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800**